

**SUMTER COUNTY BOARD OF COMMISSIONERS  
EXECUTIVE SUMMARY**

**SUBJECT:** Amend the Road Impact Fee Ordinance to Exempt Non-Profit Corporations and Reimburse Impact Fee Fund from General Fund (Board's Option).

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**REQUESTED ACTION:** **Board's Option**

☐ Work Session (Report Only)    **DATE OF MEETING:** 10/13/2009  
☒ Regular Meeting                      ☐ Special Meeting

**CONTRACT:** ☒ N/A                                      Vendor/Entity: \_\_\_\_\_  
Effective Date: \_\_\_\_\_                      Termination Date: \_\_\_\_\_  
Managing Division / Dept: Planning

**BUDGET IMPACT:** \$18,500  
☒ Annual                      **FUNDING SOURCE:** General Fund  
☐ Capital                      **EXPENDITURE ACCOUNT:** Allocation from Reserves for Contingencies  
☐ N/A

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**HISTORY/FACTS/ISSUES:**

On September 29, 2009, the Board set a public hearing for the October 13, 2009, meeting to consider amending the Road Impact Fee Ordinance to exempt non-profit corporations and provide for a reimbursement to the impact fee fund from the general fund. The Board requested staff to propose additional language to regulate potential abuse of the exemption. Specifically, the Board asked staff to develop language which:

1. Requires the non-profit to own the land where the construction occurs;
2. Establishes caps on the amount of construction eligible for exemption; and
3. Provides a minimum time that the non-profit must utilize the facility constructed.

Based on this direction, staff developed language to address these concerns. The following provides a brief summary of the proposed language.

A definition is added to clearly delineate the documentation required to prove the organization is a valid non-profit corporation:

"Nonprofit Corporation: Any entity which meets the definition of a private foundation or public charity under Section 26 U.S.C. 509 of the Internal Revenue Code of the United States and has filed the appropriate forms for tax exemption with the Internal Revenue Service and subsequently received written notice of approval of nonprofit status under Section 26 U.S.C. 5019(c)(3) of the Internal Revenue Code of the United States."

In order to qualify for the exemption the non-profit corporation must:

1. Submit written verification of their non-profit status, consistent with the definition;
2. Own the property where the construction will occur; and
3. Enter into an agreement with the Board that requires the non-profit corporation to utilize the constructed space for their own operations and may not sell the property for at least 3 years.

In addition, the proposed amendment limits the value of the exempted impact fees to the value of impact fees for 1 dwelling unit per parcel or 5,000 square feet of gross floor area for non-residential construction. The non-profit corporation is responsible for payment of impact fees for the portion of

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construction in excess of 1 dwelling unit per parcel or 5,000 square feet of gross floor area of non-residential construction.

The proposed limitations on the non-profit corporation impact fee exemption will limit its applicability to properly documented non-profit corporations who own the property proposed for construction and will utilize the constructed facility for their own operations for at least 3 years. The potential liability to the County's General Fund for reimbursement is limited by the cap on eligible construction for the exemption ( 1 dwelling unit per parcel or 5,000 square feet of gross floor area).

Based on permitting activity for non-profit organizations over the past year, the estimated maximum fiscal impact to the General Fund for the reimbursement to the road impact fee fund is \$18,500. The proposed limitations may decrease the actual liability for reimbursement. The \$18,500 would be allocated from Reserves for Contingencies.

Construction by a non-profit corporation has the same impact to the provision of public services funded by the impact fees as construction by a for-profit corporation. The decision to provide exemptions to non-profit corporations for impact fees and to utilize General Fund revenues to reimburse the impact fee funds for the value of the exempted impact fees is solely a policy decision of the Board. The Board's options are:

1. Approve amendments to the Road Impact Fee Ordinance for exemption of non-profit corporations as presented;
  2. Not approve amendments to the Road Impact Fee Ordinance and continue to require non-profit corporations to pay impact fees;
  3. Direct staff to revise proposed amendments to the Road Impact Fee Ordinance for exemption of non-profit corporations and table hearing to a future date.
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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF SUMTER COUNTY, FLORIDA, AMENDING ARTICLE III, CHAPTER 20, OF THE SUMTER COUNTY CODE, AMENDING THE ROAD IMPACT FEE ORDINANCE TO PROVIDE FOR AN EXEMPTION FOR QUALIFIED NONPROFIT CORPORATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Sumter County (the Board) adopted a road impact fee ordinance on July 14, 2009, Ordinance 2009-14, which was codified as Chapter 20; Article III of the Sumter County Code; and

**WHEREAS**, the Board has determined that the public benefit provided by properly organized and active nonprofit corporations provides a rational basis for the exemption of such entities from the payment of impact fees; such fees to be supplied by from the general fund; and;

**NOW THEREFORE, BE IT ORDAINED BY the Board of Commissioners of Sumter County as follows:**

**SECTION 1.** That the following sections of Chapter 20; Article III of the Sumter County Code be amended as provided herein:

A. The following definition shall be added to **Sec. 20-31. Definitions.**

*Nonprofit Corporation:* Any entity which meets the definition of a private foundation or public charity under Section 26 U.S.C. 509 of the Internal Revenue Code of the United States and has filed the appropriate forms for tax exemption with the Internal Revenue Service and subsequently received written notice of approval of nonprofit status under Section 26 U.S.C. 5019(c)(3) of the Internal Revenue Code of the United States.

B. The following exemption shall be added to **Sec. 20-40. Exemptions.**

Nonprofit Corporations, as defined herein, shall, upon submission to the County of sufficient written proof of active, current nonprofit corporation status with the Florida Secretary of State and proper nonprofit status acquisition with the Internal Revenue Service, be exempt from payment of the Impact Fees applied by this ordinance. Entities claiming nonprofit status which are exempt from the filing and application requirements of Section 26 U.S.C. 501 of the Internal Revenue Code must provide sufficient proof of exemption from such requirements. Moreover, the Nonprofit Corporation at issue must own the land upon which construction is occurring. A Nonprofit Corporation will be exempt from Impact Fees not to exceed the value of Impact Fees for one dwelling unit per parcel or no more than five thousand (5,000) gross square feet of non residential space. The Nonprofit Corporation shall pay Impact Fees on the portion of the construction exceeding one dwelling unit per parcel or five thousand (5,000) gross square feet of non residential space. Finally, a Nonprofit Corporation must enter into an agreement with the County requiring it to utilize the space for its own operations (as opposed to those of a tenant) for three (3) years, and any sale of the property is prohibited during that time. Provided the aforementioned conditions are met, the County shall pay the exempt Impact Fee amount that would normally be due from the applying entity if it did not qualify for nonprofit status through monies drawn from the

County's general fund, in order to prevent a shortfall in the balance of Impact Fees due. Nonprofit Corporations, as defined herein, provide public support, service and contributions to the people of Sumter County which provide a rational basis for the exemption provided herein. If any condition precedent to County payment stated herein is violated, through intentional acts or negligence, by the Nonprofit, the Nonprofit shall reimburse the County's general fund for the entire amount of the impact fee.

**SECTION 2.** If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion thereof shall be deemed separate, distinct, and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 3.** This Ordinance shall become effective upon adoption as dated below.

**PASSED AND ADOPTED** at a duly called session of the Sumter County Board of County Commissioners, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**BOARD OF COUNTY COMMISSIONERS SUMTER COUNTY, FLORIDA**

BY: \_\_\_\_\_  
Garry Breeden, Chairman

**ATTEST:**

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CLERK

**APPROVED AS TO FORM FOR THE RELIANCE OF SUMTER COUNTY ONLY:**

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COUNTY ATTORNEY